

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

STATE OF WISCONSIN,

Plaintiff,

v.

OPINION AND ORDER

HAJJI YAMINI McREYNOLDS-EL,

Defendant.

14-cv-801-wmc

The State of Wisconsin originally filed this action in the Circuit Court for Eau Claire County, Wisconsin, alleging that defendant Hajji Yamini McReynolds-El violated state criminal statutes by delivering or distributing a controlled substance, to wit, cocaine, and by bail jumping. *See State v. McReynolds*, Eau Claire County Case No. 2014CF872. Alleging that the underlying complaint in that case is factually insufficient and that the proceedings violate his right to due process, defendant removed the case to this court. A review of the pleadings and defendant's notice of removal, however, establishes that the removal was improperly filed. Accordingly, this case will be summarily remanded to state court.

OPINION

Defendant bases removal upon 28 U.S.C. § 1443, which allows removal of a criminal prosecution “[a]gainst any person who is denied or cannot enforce in the courts of such State a right under any law providing for the equal civil rights of citizens of the United States, or of all persons within the jurisdiction thereof[.]” 28 U.S.C. § 1443(1).

To gain removal to federal court under § 1443, the defendant must show both that (1) the right allegedly denied arises under a federal law providing for specific rights stated in terms of racial equality; *and* (2) the removal petitioner is denied or cannot enforce the specified federal rights in the state courts due to some formal expression of state law. *See Johnson v. Mississippi*, 421 U.S. 213, 219 (1975).

Defendant does not satisfy *either* prong of this test. As an initial matter, defendant does not claim that he is being deprived of a specific civil right stated in terms of racial inequality or discrimination. Even if he had, there is no impediment to his raising those issues in state court. Because defendant has otherwise failed to satisfy the requirements of § 1443(1), this case must be remanded to state court.

ORDER

IT IS ORDERED that this case is REMANDED to the Circuit Court for Eau Claire County, Wisconsin. The clerk of court is directed to return the record to the state court.

Entered this 23rd day of December, 2014.

BY THE COURT:

/s/

WILLIAM M. CONLEY
District Judge